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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,768	07/31/2003	Dale Robert Reimer	H310830US	8464

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EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/630,768

Applicant(s)

REIMER, DALE ROBERT

Examiner

Bruce A. Lev

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 4-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

BRUCE A. LEV  
PRIMARY EXAMINER

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

**Claim 2** is rejected under 35 U.S.C. **112**, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims unclear. For example, the preamble clearly indicates that the subcombination of a “support assembly” is being claimed with the functional recitation of the “support assembly” being used “for a horizontal extending member”. However, the body of the claim positively recites the “horizontal extending member”, e.g., “the legs diverging from... the horizontal extending member”, which indicates the claims as being drawn to a combination of the “support assembly” and the “horizontal extending member”. Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the “support assembly” alone or in combination with the “horizontal extending member”, and to present the claims with the language which is consistent with the invention. The applicant should note that “*adapted to be*” language may be appropriate if claiming the “support assembly” alone (i.e., “adapted to be secured to”).

### ***Claim Rejections - 35 USC § 103***

Claims 2, 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***McQuiston 5,305,850 in view of McGillis et al 2003/0159886***.

**McQuiston sets forth** a support assembly including a pair of support devices 16 each having legs with the upper end carrying a retainer, and securing means (inclusive of nut and bolt members 26) securing the legs together and adapted to secure the legs to a horizontally extending member 14 in a configuration that is diverging downwardly from the horizontally extending member. **What McQuiston does not set forth** is the retainer being rectangular, and the legs also diverging laterally/longitudinally. However, **McGillis et al** teach the use of legs 18 having rectangular retainers 14, and wherein the legs diverging downwardly and laterally/longitudinally within its support assembly. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston by forming the retainers as being rectangular, and also diverging the legs in the lateral/longitudinal direction, as taught by McGillis et al, in order to increase the rigidity and stability of the support assembly. The applicant should note that since the horizontally extending member is not positively set forth within the claims, comparisons thereto are not considered as having patentable weight.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McQuiston in view of McGillis et al further in view of Cooke 5,954,156.**

**McQuiston in view of McGillis et al set forth** the support assembly, as advanced above, except for the length of the legs being adjustable. However, **Cooke teaches** the use of adjustable legs within a support assembly. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the support assembly of McQuiston in view of McGillis et al by forming the legs as being adjustable in length, as taught by Cooke, in order to provide means to adjust the height of the support assembly.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McQuiston in view of McGillis et al further in view of Bremer 293,847.**

**McQuiston in view of McGillis et al set forth** the support assembly, as advanced above, except for the second support assembly, and wherein the support assemblies are connected by a hinge and forming a fence. However, as concerns the second support assembly, the examiner takes the position that it would have merely been a **duplication of parts** to provide additional support assemblies in order to increase the length of the support and create a fence. As concerns the hinge, **Bremer teaches** the use of hinges (inclusive of member E) between support assemblies. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston in view of McGillis et al by connecting multiple support assemblies via a hinge, as taught by Ernest, in order to adjustably increase the effective support area of the support assembly.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McQuiston in view of McGillis et al further in view of Ernest 565,338.**

**McQuiston in view of McGillis et al set forth** the support assembly, as advanced above, except for the second support assembly, and wherein the support

assemblies are connected by an in-line connector. However, as concerns the second support assembly, the examiner takes the position that it would have merely been a **duplication of parts** to provide additional support assemblies in order to increase the length of the support. As concerns the in-line connector, **Ernest** teaches the use of an in-line connector (inclusive of member C) between support assemblies. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support assembly of McQuiston in view of McGillis et al by connecting multiple support assemblies via an in-line connector, as taught by Ernest, in order to adjustably increase the effective support length of the support assembly.

#### ***Response to Amendment***

Applicant's remarks filed August 13, 2004 have been fully considered but they are not deemed to be persuasive.

As concerns remarks pertaining to new claims 8 and 9, the examiner reiterates the position that the limitations of these new claims are deemed to be disclosed by the combination of McQuiston in view of McGillis et al, as advanced above

#### ***Conclusion***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

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**THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).


A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

9/1/2004



**Bruce A. Lev**  
**Primary Examiner**  
**Group 3600**